

### **REMARKS/ARGUMENTS**

Applicants have reviewed the Office Action dated July 26, 2007, and submit the following remarks in response thereto. Claims 1, 20, 29, 30 and 36 have been amended. Claims 1-5, 8-11, 15, 20-24, 27-31 and 34-40 remain pending. Applicants respectfully request entry of the present amendment and reconsideration of this application.

#### ***Claim Rejections Under 35 U.S.C. §101***

Claims 1 and 20 have been amended, thus rendering this rejection moot.

#### ***Claim Rejections Under 35 U.S.C. §102***

Claims 36 and 40 stand rejected under 35 U.S.C. §102(b) as being anticipated by Younes (U.S. Patent No. 5,118,217, "Younes"). This rejection is respectfully traversed.

Claim 36 recited, *inter alia*, "wherein said support members include a first terminal end secured to said base of said support stand and a second terminal end secured to an apparatus that receives a member configured to connect said support members to the building." Younes does not teach or suggest such features. In particular, nowhere does Younes teach or suggest a member configured to connect support members to a building, much less an apparatus that receives such a member. The Office Action asserts that Younes discloses such a member by describing fitting element 55 and an apparatus by describing brace element 29. Applicants respectfully disagree. Even assuming, without conceding, that brace 29 (i.e., the alleged apparatus) receives fitting 55 (i.e., the alleged member), Younes still fails to teach or suggest that fitting 55 is configured to connect support members to *a building*. At best, brace 29 and fitting 55 of Younes relate to a moveable flood barrier. Indeed, FIGS. 1 and 2 clearly illustrate that neither the flood barriers nor the support members (e.g., brace 29 or fitting 55) is configured to connect to a building (e.g., building 16). Accordingly, claim 36 is allowable for at least these reasons.

Claim 40 recites, *inter alia*, "a support assembly comprising a plurality of support members and a base, said base having a portion received within said channel of said footing, wherein said base of said support stand has a substantially L-shaped cross section, a substantially

U-shaped cross section or a substantially T-shaped cross section and wherein a portion of said T-shaped base extends along said support members and is secured to at least one of said support members.” Contrary to the Office Action’s assertions, Younes does not teach or suggest such features. For example, nowhere does Younes teach or suggest a U, L or T-shaped base of a plurality of support members. The Office Action asserts that member A constitutes a support member. Applicants respectfully disagree. Younes’ unit A refers to a unit of a flood barrier, not a support member. See Col. 2, ll. 59-65. Stated differently, unit A is the object being supported. At best, Younes describes a brace 29 that is used to back the flood barriers like unit A. Even so, Younes does not teach or suggest that brace 29 includes a U, L or T-shaped base. Accordingly, claim 40 is allowable for at least this reason.

Claim 39 stands rejected under 35 U.S.C. §102(b) as being anticipated by Landreth (U.S. Patent No. 4,186,160, “Landreth”). This rejection is respectfully traversed.

Claim 39 recites, *inter alia*, “a support stand including a plurality of support members and a base, said plurality of support members that define said support stand each extend in a common vertical plane, wherein said base of said support stand has a substantially L-shaped cross section, a substantially U-shaped cross section or a substantially T-shaped cross section and wherein a portion of said T-shaped base extends along said support members and is secured to at least one of said support members.” Landreth fails to teach or suggest such features. The Office Action asserts that Landreth describes a U-shaped base by allegedly teaching a support stand 44. However, Landreth clearly describes element 44 as a top tie, not a support stand as recited in claim 39. Thus, even assuming, without conceding, that element 44 is U-shaped, Landreth still does not teach or suggest a *support stand* that is U, L or T-shaped in cross-section. Accordingly, claim 39 is allowable for at least these reasons.

### ***Claim Rejections Under 35 U.S.C. §103***

Claim 38 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Landreth. Claims 1-5, 8, 10, 15, 20-24, 27-29, 31, 34, 35 and 37 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Landreth in view of Hoffman (U.S. Patent No. 6,125,597, “Hoffman ‘597”). Claim 9 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Landreth in

view of Hoffman and further in view of Hoffman (U.S. Patent No. 5,953,874, "Hoffman '874"). These rejections are respectfully traversed.

Claim 38 recites, *inter alia*, a support stand including a plurality of support members and a base, said plurality of support members that define said support stand each extend in a common vertical plane, wherein said support stand includes only three support members. In addressing this claim, the Office Action asserts that it would have been obvious at the time the invention was made to a person having ordinary skill in the art to have only three members based on the necessity of the members and the length of the panel needed. However, the Office Action provides no support of these assertions. If the Office Action is taking Official Notice of such features, Applicants respectfully traverse and request citation of proper support. Claim 38 is thus allowable for at least these reasons.

Claim 1 recites, *inter alia*, a passage for receiving an anchoring rod, said passage extending through a portion of said footing from an outer surface of one of said sidewalls to the base of said footing. The Office Action concedes that Landreth, Hoffman '597 and Hoffman '874 all fail to disclose a passage extending in the direction from one sidewall to the base of a footing. Instead, the Office Action makes an unsubstantiated claim that it would have been obvious at the time the invention was made to a person having ordinary skill in the art to have an anchor rod at an angle to aid in moment resistance better. As a preliminary matter, Applicants respectfully request support for such an assertion as none of the cited references teaches or suggests a passage for receiving an anchoring rod, the passage extending through a portion of a footing *from an outer surface of a sidewall to the base of said footing*. Further, the Office Action merely asserts that it would have been obvious to insert an anchor rod at an angle, not that the anchor rod is received through a passage extending through a portion of a footing from an outer surface of a sidewall to the base of said footing as recited in claim 1. Accordingly, the Office Action fails to establish a *prima facie* case of obviousness as the references, even if combined, does not teach or suggest each and every feature of claim 1. Claim 1 is thus allowable for at least these reasons.

Claim 20 recites features similar to those discussed above with respect to claim 1 and is thus allowable for at least the same reasons as claim 20.

Claim 37 recites, *inter alia*, a support stand including a plurality of support members and a base, said plurality of support members that define said support stand each extend in a common vertical plane, wherein said support stand includes only two support members. The Office Action concedes that Landreth does not specifically disclose only two support members. Instead, the Office Action makes another unsubstantiated claim that it would have been obvious at the time the invention was made to a person having ordinary skill in the art to have only two members based on the necessity of the members and the length of the panel needed. If the Office Action is taking Official Notice of such features, Applicants respectfully traverse and request citation of proper support. Claim 37 is thus allowable for at least these reasons.

Claims 2-5, 8-10, 15, 21-24, 27-29, 31, 34, 35 and 37 are dependent on claims 1 and 20, respectively, and are thus allowable for at least the same reasons as their respective base independent claim and further in view of the novel and non-obvious features recited therein.

Claims 20, 29 and 30 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Younes in view of Hoffman '597. This rejection is respectfully traversed.

Claim 20 recites, *inter alia*, a passage for receiving an anchoring rod, said passage extending through a portion of said footing from an outer surface of one of said sidewalls to the base of said footing. The Office Action concedes that Younes does not teach or suggest such a feature. Instead, the Office Action relies on Hoffman '597 to allegedly cure this deficiency, in part. Indeed, the Office Action concedes that Landreth in view of Hoffman '597 does not disclose a passage extending through a portion of said footing *from an outer surface of one of said sidewalls to the base of said footing*. In fact, Hoffman '597 merely discloses a set of blocks (24) that are anchored to soil by an anchor rod (44). The Office Action asserts, however, that it would have been obvious to have the anchor rod at an angle. The Office Action provides no support for such an assertion. If the Office Action is taking Official Notice, Applicants respectfully traverse and request the Office provide proper support. Further, having an anchor rod at an angle does not constitute a passage extending through a portion of a footing from an outer surface of one of the sidewalls to a base of the footing. Thus, even if the Office Action's assertions are valid, the asserted combination still would not include each and every features recited in claim 20. Claim 20 is thus allowable for at least these reasons.

Claims 29 and 30 are dependent on claim 20 and are thus allowable for at least the same reasons as claim 20 and further in view of the novel and non-obvious features recited therein.

### **CONCLUSION**

If the Examiner believes that a telephone conference or a personal interview will be useful to advance the prosecution of this application and/or place the application in condition for allowance, he is invited to contact the undersigned attorney by telephone.

The Applicants hereby authorize the Commissioner to debit or credit our Deposit Account No. 19-0733 for any overpayment or necessary fees, including any necessary extension fees or other fees needed to maintain the pendency of this application.

All rejections having been addressed, Applicants respectfully submit that this application is in condition for immediate allowance and respectfully solicit prompt notification of the same.

Respectfully submitted,  
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